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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/622,080 | 07/17/2003 | John Michael Lull | U0128-703410 | 1848 |
| 37462 | 7590 | 02/10/2005 | EXAMINER | |
| LOWRIE, LANDO & ANASTASI RIVERFRONT OFFICE ONE MAIN STREET, ELEVENTH FLOOR CAMBRIDGE, MA 02142 | | | MACK, COREY D | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2855 | |

DATE MAILED: 02/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/622,080

Applicant(s)

LULL ET AL.

Examiner

Corey D. Mack

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 33-45, 58-61, 65 and 66 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 33-38 and 58-60 is/are rejected.
- 7) ☒ Claim(s) 39-45, 65 and 66 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/24/04, 11/08/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: IDS filed 12/10/04.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2. The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 33-38 and 58-60 are rejected under 35 U.S.C. 102(e) as being anticipated by Eryurek, et al. (US 6,601,005).

A. With respect to Claims 33 and 58, Eryurek discloses a mass flow controller having a control loop, the mass flow controller comprising: a flow meter 100 adapted to sense fluid flow in a fluid flow path and provide a flow signal indicative of the mass flow rate in the flow path; a controller 112 coupled to the flow meter 250 and adapted to provide a drive signal based at least in part on the flow signal; a valve actuator 114 adapted to receive the drive signal from the controller; a valve 116 adapted to be controlled by the valve actuator and coupled to the fluid flow path; at least one pressure transducer 138 to measure at least one pressure in a mass flow controller environment and to provide at least one pressure signal indicative of measurement of

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the least one pressure; and, at least one compensation means 148 to receive the at least one pressure signal and to provide at least one compensation signal to the control loop 106 to compensate for effects of pressure changes in the mass flow controller environment, wherein the control loop of the mass flow controller includes the flow meter, the controller, the valve actuator, and the valve (column 3, line 34 – column 6, line 4).

B. With respect to Claims 34, 59 and 60, Eryurek discloses at least one pressure transducer 102 measures an inlet pressure of the flow path and provides an inlet pressure signal 106.

C. With respect to Claim 35, Eruyek discloses at least one compensation means 154 includes a compensation filter to receive the inlet pressure signal and to construct a false flow signal from the inlet pressure signal (column 3, lines 34-58).

D. With respect to Claim 36, Eruyek discloses that the flow meter includes a flow sensor 258, 266, 342 adapted to sense fluid flow in the flow path and adapted to provide a sensor output signal indicative of the sensed fluid flow.

E. With respect to Claim 37, Eruyek discloses a compensation filter has a transfer function that emulates a response of the flow sensor to fluid flow resulting from changes in the inlet pressure (column 6, line 5 – column 7, line 30).

F. With respect to Claim 38, Eruyek discloses at least one variable operating condition includes a set point (column 4, lines 1-49).

Allowable Subject Matter

4. Claims 39-45, 65 and 66 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corey D. Mack whose telephone number is (571) 272-2181. The examiner can normally be reached on M-F, 8:30-4:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Lefkowitz can be reached on (571) 272-2180. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Corey D. Mack, Esq.
Patent Examiner
Art Unit 2855

February 4, 2005



EDWARD LEFKOWITZ
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